

**Authors Guild, Inc. v. HathiTrust,
755 F.3d 87 (2d Cir. 2014)**

Year	2014
Court	United States Court of Appeals for the Second Circuit
Key Facts	Defendants included several universities and university officials that collaborated with Google, Inc. on the Google Books project that digitized library collections. In 2008, a group of participating universities created defendant HathiTrust to be the administrative entity for the HathiTrust Digital Library (HDL). HDL is a shared digital repository. At the time of the litigation, HathiTrust’s membership included approximately eighty colleges, universities, and other nonprofit institutions. HDL contained digital copies of more than ten million works, “published over many centuries, written in a multitude of languages, [and] covering almost every subject imaginable.” HathiTrust used the digital copies (1) to create a database for full-text searching by the general public, (2) to permit library patrons with certified print disabilities to have access to full texts of works, and (3) to allow libraries to replace their original copies that were lost, destroyed, or stolen where a replacement was unobtainable at a fair price elsewhere. Plaintiffs, individual authors and authors’ associations, appealed the district court’s finding that defendants were entitled to the fair use defense.
Issue	Whether the HDL’s uses of copyrighted material are protected by fair use.
Holding	The court held that the HDL’s first use—creation of a full-text searchable database—was fair. It found that use “quintessentially transformative” because “the result of a word search is different in purpose, character, expression, meaning, and message from the page (and the book) from which it is drawn.” The court further held that the copies were reasonably necessary to facilitate the HDL’s services to the public and to mitigate the risk of disaster or data loss. In addition, it held that the full-text search posed no harm to any existing or potential traditional market for the copyrighted works. The court also held that the second use—access for the print-disabled—was fair. It concluded that providing such access was a valid purpose under the first statutory factor, even though it was not transformative. The court held that it was reasonable for the defendants to retain both text and image copies because the text copies were required for text searching and text-to-speech capabilities, and the image copies provide an additional method by which many disabled patrons can access the works. Finally, the court held that the fourth factor favored fair use given the insignificance of the present-day market for books accessible to the handicapped. As to HDL’s use of works for preservation, the court vacated the district court’s judgment and remanded for a determination of whether the plaintiffs had standing to bring that claim.
Tags	Second Circuit; Education/Scholarship/Research; Internet/Digitization; Textual Work
Outcome	Preliminary ruling, mixed result, or remand

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